

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : Chapter 13
ZAKIYA OGLESBY : BKY. NO. 17-16328 AMC
Debtor(s)

**STIPULATION and ORDER PURSUANT TO 11 USC §522(f) and Federal Rule of Bankruptcy
Procedure 4003(d) in Avoidance of Judicial Lien**

The Debtor(s), Zakiya Oglesby, by and through counsel, Kenneth E. West, Esquire of Douglass, West & Associates, and Creditor, The Hertz Corporation, its successors and/or assigns (hereinafter referred to as Hertz) by and through counsel, Travis L. McElhaney, Esquire, of Weber, Gallagher, Simpson, Stapleton Fires & Newby, LLP hereby file(s) this stipulation and order to avoid Hertz's judicial lien and in support thereof respectfully represent(s) as follows:

1. Debtor(s) commenced this case by filing a Voluntary Petition under Chapter 13 of the Bankruptcy code on September 15, 2017.
2. William C. Miller, Esquire has been appointed the Chapter 13 Trustee in this case.
3. Hertz is a creditor in the above-mentioned filing.
4. On or about September 19, 2016, Hertz, through their counsel, Travis L. McElhaney, Esquire obtained a judgment in Hertz' favor against the debtor (Philadelphia Court of Common Pleas No. 160702930). Said judgment gave rise to a judicial lien in and on the real property owned by Debtor at 6136 Christian Street, Philadelphia PA 19143. The said judgment is entered of record.
5. The Debtor's interest in the real estate referred to in the proceeding paragraph and encumbered by the lien does not exceed \$23,675.00 in value and has been claimed as fully exempt in her bankruptcy.
6. At the time Debtor filed the instant bankruptcy petition, the value of the real estate was approximately \$120,158.00.

7. Debtor's interest in the real estate is subject to a mortgage to PHFA in the amount of approximately \$100,835.34.
8. Debtor's interest in the real estate is subject to a judgment due Portfolio Recovery in the amount of approximately \$1,449.47 (Philadelphia Municipal Court No. SC-14-04-17-5013).
9. Debtor's interest in the real estate is subject to a judgment due Freedom Credit Union in the amount of approximately \$7,048.86 (Philadelphia Municipal Court No. SC-15-03-02-3050).
10. The existence of Hertz' lien impairs exemptions to which the Debtor is entitled under 11 USC §522(b).
11. The aforesaid debt was duly listed on the debtor's schedules as debt in the above-captioned case.
12. Hertz' aforesaid lien upon debtor's property is a judicial lien with the purview of 11 USC §522 (f)(1), and impairs debtor's aforesaid exemption within the meaning of 11 USC §522 (f), in that said property has been claimed as exempt under 11 USC §522 (d)(1).

WHEREAS it is the desire of the parties to resolve all matters and claims between the parties, which could be raised in a motion to avoid judicial lien pursuant to 11 USC §522(f) and Federal Rule of Bankruptcy Procedure 4003(d).

IT IS HEREBY STIPULATED AND AGREED by and among counsel for the debtor, KENNETH E. WEST and counsel for creditor, The Hertz Corporation, TRAVIS L. McELHANEY that:

- 1) The Hertz Corporation's claim in the amount of approximately \$10,877.64 is allowed as an unsecured claim only (Hertz shall file a unsecured Proof of Claim).
- 2) Upon successful completion of the plan and entry of the chapter 13 discharge, the Debtor is authorized to record copies of this stipulation and order with the Philadelphia Court of Common Pleas and/or the Philadelphia Recorder of Deeds.
- 3) The recording of this stipulation and order shall release any and all liens, encumbrances and/or judgments associated with Hertz's claim against the property, namely 6136 Christian Street, Philadelphia PA 19143.

- 4) In the event that the chapter 13 plan in this case is not completed, then this stipulation shall not be recorded and Hertz's claim shall not be treated as released.
- 5) The parties agree that a facsimile signature shall be considered an original signature. All parties shall bear their own costs, and the signatories represent that the execution of this stipulation has been authorized by their respective principals.

IN WITNESS WHEREOF, the parties have executed this Stipulation, intending to be legally bound hereby, as of this 15th day of March, 2018.

BY:

Kenneth E. West
KENNETH E. WEST, ESQ
DOUGLASS, WEST & ASSOCIATES
Attorney for Debtor(s)

BY:

Travis L. McElhaney
TRAVIS L. McELHANEY, ESQ.
WEBER, GALLAGHER, ET AL
Attorney for The Hertz Corporation

ORDER APPROVING STIPULATION

AND NOW, to wit, this _____ day of _____, 2018, the above Stipulation be and hereby is APPROVED and entered as an Order of the Court, and the parties thereto are directed to comply therewith.

Upon successful completion of the Chapter 13 Plan and Discharge, the Debtor is authorized to record copies of this stipulation and order in the Philadelphia Municipal Court and/or the Recorder of Deeds. In accordance with the terms of the stipulation, the recording of the stipulation shall constitute the release of any liens, encumbrances and/or judgments associated with The Hertz Corporation's claim against the property, known as 6136 Christian Street, Philadelphia PA 19143 (Philadelphia Court of Common Pleas No. 160702930).

BY THE COURT:

BY:

Asheley M. Chan
ASHELY M. CHAN, U.S.B.J.

Copies to:

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